



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 5]

नई दिल्ली, बुधवार, जनवरी 5, 1996/पौष 15, 1917

No. 5]

NEW DELHI, FRIDAY, JANUARY 5, 1996/PAUSA 15, 1917

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 5th January, 1996/Pausa 15, 1917 (Saka)

The following President's Act is published for general information:—

THE UTTAR PRADESH STATE COMMISSION FOR BACKWARD CLASSES 1996

No. 1 OF 1996

Enacted by the President in the Forty-sixth Year of the Republic
of India

An Act to constitute a Commission for the State of Uttar Pradesh for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

In exercise of the powers conferred by section 3 of the Uttar Pradesh State Legislature (Delegation of Powers) Act, 1995, the President is pleased to enact as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Uttar Pradesh State Commission for Backward Classes Act, 1996.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the November 17, 1994.

Definitions.

2. In this Act—

(a) "backward classes" means such classes of citizens as are defined in clause (b) of section 2 of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 as amended from time to time;

(b) "Commission" means the State Commission for Backward Classes constituted under section 3;

(c) "Member" means a Member of the Commission and includes the Chairman;

(d) "Schedule" means Schedule I to the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 as amended from time to time.

CHAPTER II

THE STATE COMMISSION FOR BACKWARD CLASSES

Constitution of the State Commission for backward classes.

3. (1) The State Government shall constitute a body to be known as the State Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The headquarters of the Commission shall be at such place as the State Government may, by notification, specify.

(3) The Commission shall consist of a Chairman and four other Members nominated by the State Government from amongst persons of eminence, ability and integrity:

Provided that four Members including the Chairman shall be from the backward classes.

Term of office and conditions of service.

4. (1) The Chairman and every other Member shall hold office for a term of three years from the date he assumes office.

(2) A Member may, by writing under his hand addressed to the Governor, resign from the office of Chairman or, as the case may be, of Member at any time but shall continue to hold office until his resignation is accepted.

(3) The State Government shall remove a person from the office of Member if that person—

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) has, in the opinion of the State Government, so abused the position of Chairman of Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.

(5) The salaries and allowances payable to, and other terms and conditions of service of the Chairman and Members shall be such as may be prescribed.

5. (1) The State Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission.

Officers and other employees of the Commission.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the Secretary and other officers and employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. The salaries and allowances payable to the Chairman and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

Salaries and allowances to be paid out of grants.

7. No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of the Commission.

8. (1) The Commission shall meet as and when necessary at such time and place as the Chairman may think fit.

Procedure to be regulated by the Commission.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this behalf.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

9. (1) The Commission shall perform all or any of the following functions, namely:—

Functions of the Commission.

(a) the commission shall examine requests for inclusion of any class of citizens as a backward class in the Schedule and hear complaints of wrong inclusion or non-inclusion of any backward class in the Schedule and tender such advice to the State Government as it deems appropriate;

(b) to investigate and monitor all matters relating to the safeguards provided for the backward classes under any law for the time being in force or under any order of the State Government and to evaluate the working of such safeguards;

(c) to enquire into specific complaints with respect to the deprivation of rights and safeguards of the backward classes;

(d) to participate and advise on the planning process of socio-economic development of the backward classes and to evaluate the progress of their development;

(e) to present to the State Government annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(f) to make in such reports recommendations, as to the measures that should be taken by the State Government for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the backward classes; and

(g) to discharge such other function in relation to the protection, welfare, development and advancement of the backward classes as may be referred to it by the State Government.

(2) The State Government shall cause the reports of the commission to be laid before each House of the State Legislature along with a memorandum explaining the action taken or proposed to be taken on the recommendations and the reason for the non-acceptance, if any, of any of such recommendations.

Powers of the Commission.

10. The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

Periodic revision of the Schedule by the State Government.

11. (1) The State Government may, at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the Schedule with a view to excluding from the Schedule those classes who have ceased to be backward classes or for including in the Schedule new backward classes.

(2) The State Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by the State Government.

12. (1) The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and audit.

13. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed.

(2) The accounts of the Commission shall be audited by such auditor and at such intervals as may be prescribed.

(3) The auditor shall have such powers of requiring the production of books, accounts, connected vouchers and other documents and papers and for inspecting any of the offices of the Commission as may be prescribed.

Annual report.

14. The Commission shall prepare annual report for each financial year, in such form and at such time, as may be prescribed giving a full account of its activities during that financial year and forward a copy thereof to the State Government.

Annual report and audit report to be laid before the State Legislature.

15. The State Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before both the Houses of the State Legislature.

CHAPTER V

MISCELLANEOUS

Chairman, Members and employees of the Commission to be public servants.

16. The Chairman, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.



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Provided that four Members including the Chairman shall be from the backward classes.

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4. (1) The Chairman and every other Member shall hold office for a term of three years from the date he assumes office.

(2) A Member may, by writing under his hand addressed to the Governor, resign from the office of Chairman or, as the case may be, of Member at any time but shall continue to hold office until his resignation is accepted.

(3) The State Government shall remove a person from the office of Member if that person—

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) has, in the opinion of the State Government, so abused the position of Chairman of Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.

(5) The salaries and allowances payable to, and other terms and conditions of service of the Chairman and Members shall be such as may be prescribed.

5. (1) The State Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission.

Officers and other employees of the Commission.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the Secretary and other officers and employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. The salaries and allowances payable to the Chairman and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

Salaries and allowances to be paid out of grants.

7. No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of the Commission.

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Procedure to be regulated by the Commission.

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(b) to investigate and monitor all matters relating to the safeguards provided for the backward classes under any law for the time being in force or under any order of the State Government and to evaluate the working of such safeguards;

(c) to enquire into specific complaints with respect to the deprivation of rights and safeguards of the backward classes;

(d) to participate and advise on the planning process of socio-economic development of the backward classes and to evaluate the progress of their development;

(e) to present to the State Government annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(f) to make in such reports recommendations, as to the measures that should be taken by the State Government for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the backward classes; and

(g) to discharge such other function in relation to the protection, welfare, development and advancement of the backward classes as may be referred to it by the State Government.

(2) The State Government shall cause the reports of the commission to be laid before each House of the State Legislature along with a memorandum explaining the action taken or proposed to be taken on the recommendations and the reason for the non-acceptance, if any, of any of such recommendations.

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10. The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
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Periodic revision of the Schedule by the State Government.

11. (1) The State Government may, at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the Schedule with a view to excluding from the Schedule those classes who have ceased to be backward classes or for including in the Schedule new backward classes.

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FINANCE, ACCOUNTS AND AUDIT

Grants by the State Government.

12. (1) The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and audit.

13. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed.

(2) The accounts of the Commission shall be audited by such auditor and at such intervals as may be prescribed.

(3) The auditor shall have such powers of requiring the production of books, accounts, connected vouchers and other documents and papers and for inspecting any of the offices of the Commission as may be prescribed.

Annual report.

14. The Commission shall prepare annual report for each financial year, in such form and at such time, as may be prescribed giving a full account of its activities during that financial year and forward a copy thereof to the State Government.

Annual report and audit report to be laid before the State Legislature.

15. The State Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before both the Houses of the State Legislature.

CHAPTER V

MISCELLANEOUS

Chairman, Members and employees of the Commission to be public servants.

16. The Chairman, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

17. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) salaries and allowances payable to, and other terms and conditions of service of, the Chairman and Members under sub-section (8) of section 4 and of officers and other employees under sub-section (2) of section 5;

(b) the form in which the annual statements of accounts shall be maintained under sub-section (1) of section 13;

(c) the form in, and the time at, which the annual report shall be prepared under section 14;

(d) any other matter which is required to be, or may be, prescribed.

18. Whoever, being legally bound to obey any order or direction of the Commission under section 10, disobeys such order or direction shall be punishable under section 174, 175, 176, 178, 179 or 180 of the Indian Penal Code, as the case may be.

Penalty.

45 of 1860

19. No court shall take cognizance of any of the offences specified in section 18 except on the complaints in writing of the Chairman or a Member or of an officer of the Commission authorised in this behalf by the Commission.

Cognizance of offences.

20. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules made thereunder.

Protection of action taken in good faith.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by a notified order, make provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulty.

Power to remove difficulties.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

U.P. Act No. I of 1904.

(3) The provisions of sub-section (1) of section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply to the order made under sub-section (1) as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

22. Notwithstanding anything in this Act the Commission constituted by the Uttar Pradesh Government order No. 22/16/92-KA-2-93, dated March 9, 1993, shall be deemed to have been duly constituted under the provision of this Act and the term of three years of the Chairman and other Members of the said Commission shall be computed from the date on which they had assumed charge of their respective offices.

Saving.

U.P. Ordinance No. 34 of 1995.

23. (1) The Uttar Pradesh State Commission for Backward Classes (Second) Ordinance, 1995 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred in sub-section (1), shall be deemed to have been done or taken under this Act.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Government of India.

Reasons for the enactment

In pursuance of the Judgement of the Hon'ble Supreme Court in the Mandal Commission Case (India Sahani Vs. Union of India), the State Government constituted a commission for Backward Classes by notification dated 9th March, 1993. It was decided to regulate the constitution of the said Commission by an enactment. It was further decided that besides examining the request for inclusion of any class of citizens as backward class and complaints of wrong inclusion or non-exclusion in the list of backward classes, the Commission may also perform other specified functions with a view to safeguard of the interest and welfare of the backward classes.

2. Since the State Legislature was not in session and immediate legislative action in the matter was necessary, the Uttar Pradesh State Commission for Backward Classes Ordinance, 1994 (U.P. Ordinance No. 26 of 1994) was promulgated by the Governor on 17th November, 1994. To replace the provisions of the aforesaid Ordinance the Uttar Pradesh State Commission for Backward Classes Bill, 1995 was introduced in the Uttar Pradesh Legislative Council on 6th February, 1995 but since the said Bill could not be passed by the Uttar Pradesh Legislative Council, the Uttar Pradesh State Commission for Backward Classes Ordinance, 1995 (U.P. Ordinance, No. 12 of 1995) was promulgated by the Governor on 30th March, 1995 to keep the provisions of the aforesaid Ordinance in force.

3. Since the aforesaid Bill could not be passed in the session of the State Legislature commencing from 14th July, 1995, and remained pending with the Legislative Assembly, the Uttar Pradesh State Commission for Backward Classes (Second) Ordinance, 1995 (U.P. Ordinance No. 34 of 1995) was promulgated by the Governor on 25th August, 1995 to replace the provisions of the aforesaid U.P. Ordinance No. 12 of 1995.

4. The President issued a proclamation on the 18th October, 1995 under article 356 of the Constitution, in relation to the State of Uttar Pradesh, declaring, *inter alia*, that the powers of Legislature of the State shall be exercised by or under the authority of Parliament. Parliament has, under article 357(1)(a) of the Constitution, now conferred on the President, the powers of the Legislature of the State of Uttar Pradesh to make laws *vide* the Uttar Pradesh State Legislature (Delegation of Powers) Act, 1995 (2 of 1996).

5. The said Ordinance could not be replaced by an Act and the Ordinance is expiring on 7th January, 1996. It is, therefore, decided that the said Ordinance shall be replaced by a President's Act.

6. Under the proviso to sub section (2) of section 3 of the Uttar Pradesh State Legislature (Delegation of Powers) Act, 1995 (2 of 1996) the President shall, before enacting any President's Act, consult a Committee constituted for the purpose consisting of the members of both the Houses of Parliament. As the said Committee has yet not been constituted and the matter is very urgent, it is proposed to enact the measure without reference to the said Committee.

K. B. SAXENA,
Secy. to the Government of India.